

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of PACIFIC GAS AND ELECTRIC COMPANY for Adoption of its 2005 Energy Resources Recovery Account (ERRA) Forecast Revenue Requirement and for Approval of its 2005 Ongoing Competition Transition Charge (CTC) Revenue Requirement and Rates. (U 39 E)

Application 04-06-003  
(Filed June 1, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING  
ON MOTIONS FOR LEAVE TO FILE UNDER SEAL  
AND APPROVAL OF A PROTECTIVE ORDER**

By its June 1, 2003 motion, Pacific Gas and Electric Company (PG&E) moves for leave to file under seal certain information pertaining to the use of utility retained generation resources, energy under PG&E contracts, Department of Water Resources contracts allocated to PG&E, management of surplus energy, acquisition of power to meet the residual net short, and hedging activities. PG&E filed this motion pursuant to Public Utilities Code Section 583 and General Order (GO) 66-C.

By a companion motion, PG&E seeks a protective order to ensure that its sealed information and protective computer program materials relied on in developing its testimony remains confidential. Proposed protective agreements (agreements) to govern access and use of all PG&E protected information were attached to that companion motion.

The granting of PG&E's request to seal confidential information and computer program materials included in its prepared testimony would not

prejudice any party because PG&E would provide Commission staff access to such information and upon the signing of the agreements interested parties would also have access. It is also consistent with prior treatment of PG&E confidential information. The information tendered under seal shall remain under seal as set forth in this ruling, pursuant to GO 66-C and the authority therein cited by PG&E.

It is also reasonable to require interested parties to sign agreements to access this confidential information relied on by PG&E in developing its testimony. Such a request is consistent with Article 17.1 of the Commission's Rules of Practice and Procedure. However, approval of the specific agreements attached to PG&E's motion is premature.

Consistent with Rule 74.7 of the Commission's Rules of Practice and Procedure, PG&E should execute a mutually agreed upon agreement with any party other than Commission staff wanting to access sealed data PG&E relied on in developing its testimony. To the extent that parties cannot agree on a reasonable agreement, the assigned ALJ upon receipt of a motion shall resolve any disputes.

Good cause appearing, **IT IS RULED** that:

1. The motion of Pacific Gas and Electric Company (PG&E) for leave to file under seal commercially sensitive information and protected computer program materials contained in its testimony and exhibits is granted.

2. Portions of PG&E testimony, concurrently submitted as a sealed document with its application, shall remain under seal during this proceeding, and during that period shall not be made accessible or disclosed to anyone other than Commission staff except on the execution of mutually acceptable protective agreements or on further order or ruling of the Commission, the Assigned

Commissioner, the assigned Administrative Law Judge (ALJ), or the ALJ then designated as Law and Motion Judge.

3. PG&E shall provide the confidential information to the Commission staff under the protection of Public Utilities Code Section 583.

4. PG&E shall execute mutually agreed upon protective agreements with any party, other than Commission staff, wanting access to sealed information and computer models including algorithms and assumptions PG&E relied on in developing its testimony covered by a license agreement or deemed confidential. The assigned Administrative Law Judge upon receipt of a motion shall resolve any disputes.

Dated July 23, 2004, at San Francisco, California.

/s/ MICHAEL J. GALVIN

Michael J. Galvin  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on Motions for Leave to File Under Seal and Approval of a Protective Order all parties of record in this proceeding or their attorneys of record.

Dated July 23, 2004, at San Francisco, California.

/s/ TERESITA C. GALLARDO  
Teresita C. Gallardo

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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